

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE: §
RAFAEL MONTES DE OCA §
§
DEBTOR § CASE NO. 15-10587-TMD
§
§ CHAPTER 13

**TRUSTEE'S RESPONSE TO DEBTOR'S MOTION TO APPROVE EMPLOYMENT OF
COUNSEL NUNC PRO TUNC AND FIRST APPLICATION FOR ADDITIONAL
ATTORNEY FEES**

TO THE HONORABLE TONY M. DAVIS, UNITED STATES BANKRUPTCY JUDGE:

Comes now Deborah B. Langehennig, Chapter 13 Trustee (hereinafter "Trustee") in the above-captioned and numbered bankruptcy proceeding, and files this *Response to Debtor's Motion to Approve Employment of Counsel Nunc Pro Tunc and First Application for Additional Attorney Fees*, (the "Response") and in support thereof would respectfully show the Court as follows:

I.

On May 4, 2015, the Debtor filed a petition seeking relief under Chapter 13 of the United States Bankruptcy Code. The Trustee files this *Response* to the Debtor's *Motion to Approve Employment of Counsel Nunc Pro Tunc and First Application for Additional Attorney Fees* (the "Motion to Employ") and objects on the basis that certain provisions included in the *Engagement Letter* do not appear to comport with provisions of the Bankruptcy Code or Rules.

Specifically, the Trustee objects to the Debtor agreeing to "transfer, assign, and forever convey to LOSDU a contingent fee interest in the claims and settlement amounts and consideration he receives for the claims." The Trustee objects to the language creating a conveyance of the post-petition claims to the applicant attorney.

II.

The Trustee would further assert that pursuant to Local Rule 2014(b)(2), "The Court recommends that any proposed form of order granting an application to employ include language stating that settlement funds shall not be disbursed without prior court approval." *See* L. Rule 2014(b)(2). The Trustee requests that the Debtor's proposed form of order include the language recommended by the Court.

III.

The Trustee requests information regarding the value of the claim(s) in question and information regarding the status of the claim(s) from applicant attorney. The Trustee further requests a description and value of the recoverable damages.

IV.

The Trustee further requests that the Debtor's Plan base be increased by the amount of the attorney fees requested and approved.

PRAYER

Wherefore, premises considered, the Chapter 13 Trustee requests that the *Debtor's Motion to Approve Employment of Counsel Nunc Pro Tunc and First Application for Additional Attorney Fees* be denied, and that the Court grant the Chapter 13 Trustee such other, additional and further relief to which she may be justly entitled.

Respectfully submitted,

/S/ Deborah B. Langehennig
Deborah B. Langehennig / 01493880
Chapter 13 Trustee
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**UNITED STATES BANKRUPTCY COURT
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DEBTOR

CHAPTER 13

CERTIFICATE OF SERVICE

I, Deborah B. Langehennig, certify that a true and correct copy of the Chapter 13 Trustee's Response to Motion to Approve Employment of Counsel has been mailed by US Mail (unless otherwise noted below) to the Debtor, the Debtor's Attorney of Record and the parties requesting service at the addresses listed below on or about January 05, 2016.

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Respectfully submitted,

/s/ Deborah B. Langehennig
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